

***United States Court of Appeals  
for the Second Circuit***



**PETITION**





UNITED STATES COURT OF APPEALS  
SECOND CIRCUIT

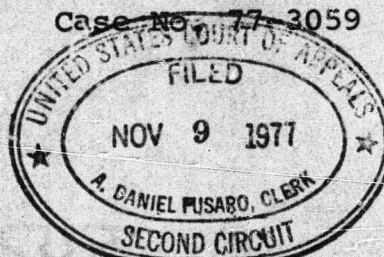
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IN RE:

: NOTICE OF PETITION

ARTHUR A. GROSSMAN

: Case No. 77-3059

Petitioner.  
-----X



SIRS:

PLEASE TAKE NOTICE, that the within verified Petition requests a rehearing and/or Rehearing In Banc of the Petitioner's Petition dated and verified September 1st, 1977, and for such other and further relief as to this Court may seem just and proper in the premises.

Dated: New York, New York  
November 4, 1977

Yours, etc.

ARTHUR A. GROSSMAN  
Petitioner pro se  
Suite 1105  
350 Broadway  
New York, N.Y. 10013  
(212) CA-6-0699

TO:  
Hon. Whitman Knapp  
Judge of United States District Court

W. Bernard Richland  
Corporation Counsel of the City of New York

OFFICE OF CORP. COUNSEL

77 NOV 9 PM 2:35

LAURENCE M. RICHMAN  
CITY OF NEW YORK



UNITED STATES COURT OF APPEALS  
SECOND CIRCUIT

-----X

|                     |   |                          |
|---------------------|---|--------------------------|
| IN RE:              | : | VERIFIED PETITION FOR    |
|                     | : | REHEARING AND/OR         |
| ARTHUR A. GROSSMAN, | : | <u>REHEARING IN BANC</u> |
|                     | : |                          |
| Petitioner.         | : | Case No. 77-3059         |

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TO THE HONORABLE JUDGES OF THE  
UNITED STATE COURT OF APPEALS FOR  
THE SECOND CIRCUIT:

1. That by Petition dated and verified September 1, 1977, I sought to have the Court issue a Writ of Mandamus, pursuant to Rule 21 of the Federal Rules of Appellate Procedure, directing Judge Whitman Knapp to recuse himself from the Petitioner's case before him by virtue of the fact that there was an attorney and client relationship between Judge Knapp and one of the defendants whom I am suing for money damages in a Title 42 Civil Rights action. I further sought such other and further relief as to this Court may seem just and proper in the premises.

2. The Petition was served and filed on September 6, 1977.

3. That said application was denied by a panel of this Honorable Court consisting of the Honorable Judges Friendly, Meskil and Gurfien, on October 28th, 1977.



4. I am requesting that this Honorable Court grant me a Rehearing and/or a Rehearing In Banc of the October 28, 1977 denial of my Petition dated and verified September 1, 1977.

5. Should this Court grant my application, I am requesting this Court grant me the relief sought in my original Petition of September 1, 1977 or such other and further relief as to this Court may seem just and proper.

6. In my humble opinion, the Court appears to have overlooked and misapprehended the significance of the relationship between Judge Knapp and Stanley Buchsbaum one of my defendants appearing before him.

7. Judge Knapp who worked in a close relationship as chairman of the Knapp Commission and the Corporation Counsel's Office in which I am employed, never advised me that the defendant Stanley Buchsbaum was known to him and more importantly acted as his attorney in at least three matters. (See Exhibits "B", "C" and "D" of my original Petition.) Mr. Buchsbaum argued these appeals and participated in the preparation of them. I certainly was not obligated to investigate this situation. The obligation was upon Judge Knapp to bring this to my attention. In his order filed



July 27, 1977 and marked Exhibit "E" of my original Petition, Judge Knapp stated that it never occurred to him to recuse himself "sua sponte". It certainly should have. A minimal display of judicial integrity would have demanded that he recuse himself. He should be like Caesar's wife.

8. It is probable that this sad situation may concern Judge Knapp and other defendants in my action who are City Officials, and it may very well merit an extensive investigation.

9. I am suing Mr. Buchsbaum under the Civil Rights law not only in his representative capacity, but also individually for money damages. My original Petition outlines only a bit of his horrendous abuse of power in his relationship with me. I represent about 300 New York City permanent competitive Civil Service lawyers in a highly politically sensitive pro bono publico case, which involves the illegal appointment of about 100 attorneys outside of Competitive Civil Service.

10. As stated, not only has Judge Knapp had a close attorney and client relationship with Mr. Buchsbaum, but he had a close relationship with the Corporation Counsel's Office which I wasn't aware of until this past summer.



11. Here I am trying to obtain relief from a Judge as to the chilling and rape of my first and fourteenth amendment rights and I get the feeling that I am asking the fox to guard the chicken coop. The Constitution in its protection of its citizens, does not discriminate between the courageous and the timid; or the hardy and the fool-hardy. Whatever category I may be in, I am entitled to its protection.

12. I was scheduled to have a pre-trial conference on October 18th, 1977, which Judge Knapp's chambers adjourned to October 25th, 1977 for reasons which were not conveyed to me. This adjournment was made on September 28th, 1977. On that date, I spoke with Mr. Galenter, one of Judge Knapp's law clerks. I advised Mr. Galenter that since I am challenging Judge Knapp's jurisdiction in my case before him, I thought that it would not be appropriate for him to hold a pre-trial conference until this Court made a decision on my Petition. Mr. Galenter told me that Judge Knapp read my Petition and that he will convey my thinking and advise me on September 30th, 1977. I never heard from Judge Knapp.

13. On October 25th, 1977 I appeared with my adversary before Judge Knapp. At that point I personally suggested to Judge Knapp that he hold off on any conference until this



Court decided my Petition. Judge Knapp said that he will hold the conference because he assumes that my Petition was denied. That was on October 25th, 1977. My Petition was denied on October 28th, 1977 only 3 days later.

14. Notwithstanding the fact that Mr. Galenter has advised me on September 28th, 1977, that Judge Knapp has read my Petition; Judge Knapp told me at the aforesaid conference that he just saw the Petition for the first time.

15. Judge Knapp displayed restrained antipathy towards me and kept inviting my adversary to move for summary judgment. In fact when the case was adjourned to await the outcome of my arbitration, Judge Knapp adjourned the matter to December 13th, 1977 for the next conference or (he again suggested) "a motion for Summary Judgment" to defendant's attorney. I have no trepidation whatever as to a motion for summary judgment. In fact I may want to make one myself. That is to say, I have no trepidation about that motion before just about any other Judge in the District Court. However it appears that Judge Knapp was being rather obvious as to what he had in mind.

16. I advised Judge Knapp at that conference that my former attorney who returned to Arizona which is his home,



ERASABLE

mistakenly thought that he had asked for a jury as I instructed him to. Regretfully, my former attorney who was a bit callow, thought he accomplished this by mentioning that he is asking for a jury on the clerical form he drew up to file with the pleadings. When I mentioned that to Judge Knapp he said "that's too bad" in a biting sarcastic tone.

17. On July 19th, 1977 when I had my first pre-trial conference, I advised Judge Knapp that management has reduced the charges and penalties against me. I stated further that in all likelihood impartial arbitration will probably throw out all of the charges at which point he said "good, then your case will be moot". I again reminded Judge Knapp that I am suing for abuse of power.

18. I cannot possibly get a fair and impartial disposition of my case before Judge Knapp. Continuing with him can only be an exercise in futility.

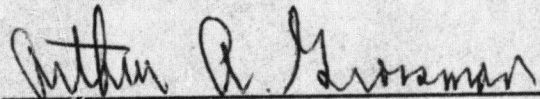
19. I certainly have the highest respect for the Judges of the District Court and I am willing to put my case in the hands of anyone of them, even one whose philosophy is very conservative when it comes to Civil Rights cases. I have no trepidations whosoever. However, I make one exception;



and that is Judge Knapp. I have absolutely no confidence in him by virtue of my experience with him. I do not ask for any special treatment from a jurist. I do ask for fairness and impartiality. Judge Knapp has given me neither, and has shown no indication that he intends to do so.

WHEREFORE, I pray this Court grant my request for a Rehearing, and/or Rehearing In Banc, and upon granting such application, grant a Writ of Mandamus pursuant to my original Petition, and for such other and further relief as to this Court may seem just and proper in the premises.

Dated: New York, New York  
November 4th, 1977



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ARTHUR A. GROSSMAN  
Petitioner

SPHINX  
ERASABLE



The undersigned, an attorney admitted to practice in the courts of New York State,

Check Applicable Box  
☐ Certification By Attorney  
☐ Attorney's Affirmation

certifies that the within has been compared by the undersigned with the original and found to be a true and complete copy.

shows: deponent is

the attorney(s) of record for  
 in the within action; deponent has read the foregoing  
 and knows the contents thereof; the same is

true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief,  
 and that as to those matters deponent believes it to be true. This verification is made by deponent and not by

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated:

.....  
 The name signed must be printed beneath

STATE OF NEW YORK, COUNTY OF NEW YORK ss.:

ARTHUR A. GROSSMAN  
 the PETITIONER

Check Applicable Box  
☒ Individual Verification

the foregoing PETITIONER

deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters deponent believes it to be true.

being duly sworn, deposes and says: deponent is  
 in the within action; deponent has read  
 and knows the contents thereof; the same is true to

Check Applicable Box  
☐ Corporate Verification

the of  
 a corporation,

foregoing

is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true. This verification is made by deponent because  
 is a corporation and deponent is an officer thereof.

in the within action; deponent has read the  
 and knows the contents thereof; and the same  
 is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true. This verification is made by deponent because  
 is a corporation and deponent is an officer thereof.

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

Sworn to before me on

4 NOV 19 77

Arthur A. Grossman  
 The name signed must be printed beneath

DOMENIC J. MIZIO  
 Notary Public, State of New York  
 No. 31-2735000  
 Qualified in New York County  
 Commission expires March 20, 1979

STATE OF NEW YORK, COUNTY OF

being duly sworn, deposes and says: deponent is not a party to the action,

is over 18 years of age and resides at

Check Applicable Box  
☐ Affidavit of Service By Mail

On 19 deponent served the within  
 upon attorney(s) for

in this action, at

the address designated by said attorney(s) for that purpose  
 by depositing a true copy of same enclosed in a post-paid properly addressed wrapper, in — a post office — official  
 depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Check Applicable Box  
☐ Affidavit of Personal Service

On 19 at deponent served the within

upon

herein, by delivering a true copy thereof to h personally. Deponent knew the  
 person so served to be the person mentioned and described in said papers as the therein.

Sworn to before me on

19

.....  
 The name signed must be printed beneath



NOTICE OF ENTRY

Sir:— Please take notice that the within is a (certified) true copy of a duly entered in the office of the clerk of the within named court on 19

Dated,

Yours, etc.,

Attorney for

Office and Post Office Address

To

Attorney(s) for

NOTICE OF SETTLEMENT

Sir:— Please take notice that an order

of which the within is a true copy will be presented for settlement to the Hon.

one of the judges of the within named Court, at

on the day of 19  
at M.

Dated,

Yours, etc.,

Attorney for

Office and Post Office Address

To

Attorney(s) for

Index No. 77-3059

Year 19 77

UNITED STATES COURT OF APPEALS  
SECOND CIRCUIT

IN RE:

ARTHUR A. GROSSMAN,

Petitioner.

NOTICE OF PETITION AND VERIFIED  
PETITION FOR REHEARING AND/OR  
REHEARING IN BANC

Arthur A. Grossman  
Petitioner pro se  
Office and Post Office Address, Telephone  
Suite 1105  
350 Broadway  
New York, New York 10013

To Hon. Whitman Knapp and  
W. Bernard Richland  
Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated,

Attorney(s) for

Rec'd. 11/9/77 by Judge  
Whitman Knapp, per  
Kenneth L. Le Bon, Dep. Clerk.